

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

POST OFFICE BOX SERVICE ENHANCEMENTS

Docket No. MC2012-26

**OPPOSITION OF THE UNITED STATES POSTAL SERVICE
TO MR. DAVID B. POPKIN'S REQUEST FOR
A PRESIDING OFFICER'S INFORMATION REQUEST**

(July 24, 2012)

The United States Postal Service ("Postal Service") hereby opposes the Request of Mr. David B. Popkin for a Presiding Officer's Information Request, which was filed on July 19, 2012 ("Request"). The Request asks that the Presiding Officer order the Postal Service to respond to ten questions concerning Attachment C of the Postal Service's Response to Order No. 1366, filed on July 9, 2012 ("Response"). The Postal Service opposes the Request because: 1.) the rules under 39 C.F.R. § 3020.30 *et seq.* do not provide for discovery in mail classification dockets, and; 2.) the Request contains questions that are not relevant to the issues raised in this Docket.

Procedural History

This proceeding has its origins in Docket No. C2012-1, which involved a complaint by the Associated Mail and Parcel Centers, et al. ("AMPC") concerning the Postal Service's introduction of service enhancements at certain Competitive

P.O. Box Service locations.¹ These service enhancements include: 1.) the option to receive electronic notification of mail delivery to the customer's P.O. Box ("Real Mail Notification"),² and; 2.) the option to use the Post Office street address and a "#" designation, in lieu of a "P.O. Box" designation, before the addressee's box number ("Street Addressing").³ As part of the Street Addressing enhancement, customers also have the option of receiving packages from private carriers at the customer's P.O. Box address ("Private Carrier Package Delivery").⁴ On April 4, 2012 the Postal Service filed a motion to dismiss the complaint.⁵

In Order No. 1366, the Commission partially denied the Postal Service's motion to dismiss, and established this Docket in order to gather additional information about the remaining issues.⁶ While the Commission acknowledged that such information "could undoubtedly be developed in an adversarial complaint proceeding," it believed that such a proceeding would be "unnecessarily costly and time-consuming."⁷ The Commission hoped that this Docket would provide the parties with "a more efficient, less costly means to address the issues in dispute."⁸

¹ PRC Docket No. C2012-1, Complaint Regarding Postal Service Offering Enhanced Services Product for Competitive PO Boxes (March 15, 2012).

² PRC Docket No. C2012-1, Order No. 1366: On Motion to Dismiss Holding Complaint in Abeyance Pending Further Proceeding, at 2 ("Order No. 1366") (June 13, 2012).

³ *Id.*

⁴ *Id.*

⁵ PRC Docket No. C2012-1, Motion of the United States Postal Service to Dismiss Complaint (April 4, 2012).

⁶ Order No. 1366, *supra* note 2, at 15-16.

⁷ *Id.* at 14.

⁸ *Id.*

Argument

In the Request, Mr. Popkin asks that the Presiding Officer issue a Presiding Officer's Information Request ("POIR"), ordering the Postal Service to respond to ten questions concerning Attachment C of its Response. Unfortunately, the Request appears to presume the existence of additional discovery procedures that do not exist under the rules applicable to mail classification proceedings.⁹ Indeed, rather than provide for discovery, the rules applicable to mail classification dockets provide for "[a] specified period for public comment."¹⁰ After receiving and considering these comments, the Commission reviews the Postal Service's request and either: 1) approves the request; 2) denies the request; 3) institutes further proceedings; 4) allows the Postal Service to modify the request, or; 5) directs the Postal Service to take other appropriate action.¹¹ As part of this rule set, the Commission may pose questions to the Postal Service through Chairman's Information Requests. However, no other mechanisms for public participation or discovery are provided.

This rule set stands in stark contrast to other rule sets, which are replete with mechanisms for the public to engage in discovery. For instance, the rules applicable to exigent rate cases specifically state that "[i]nterested persons will be given an opportunity to submit to the Commission suggested relevant questions that might be posed during the public hearing."¹² Consequently, had the

⁹ See 39 C.F.R. § 3020.30 *et seq.*

¹⁰ 39 C.F.R. § 3020.33(e).

¹¹ 39 C.F.R. § 3020.34.

¹² 39 C.F.R. § 3010.65(c).

Commission intended for participants in mail classification dockets to propose questions to the Commission, it could have clearly stated so.

Moreover, this interpretation appears to comport with the Commission's reasoning for establishing this Docket in the first place. As discussed above, the Commission specifically chose the rules under 39 C.F.R. § 3020.30 *et seq.* in order to avoid the time consuming nature of adversarial proceedings. A hallmark of such proceedings is discovery. Had the Commission intended for parties to, among other things, propose questions to the Commission, it could have simply moved forward with Docket No. C2012-1.

While the Postal Service understands that Mr. Popkin is trying to understand the intricacies of how the service enhancements have been implemented, the answers to his very specific questions are either not relevant to the legal conditions under 39 C.F.R. 3020.30 *et seq.*, or have already been addressed in the Postal Service's Response. Further, those matters that might need a more detailed explanation can be raised by Mr. Popkin by filing comments, which are due August 7, 2012.¹³ The Postal Service can then respond to those issues in its reply comments.

Finally, even if Mr. Popkin's discovery was permitted in mail classification proceedings, the Request contains a number of questions that are not relevant to the issues in this Docket. In particular, questions seven through ten deal with "signature on file," and "other benefits," that are not related to the enhancements

¹³ See PRC Docket No. MC2012-26, Order No. 1413: Granting Request for Extension to Comment Deadline, at 3 (July 23, 2012).

at issue.¹⁴ Though signature on file is a part of the customer agreement provided in Attachment C, this agreement was only intended to provide additional information about the relevant enhancements, not enlarge the scope of this proceeding. Similarly, the “other benefits” discussed in question ten are not at issue in this proceeding and are not mentioned in Attachment C.

Conclusion

For the foregoing reasons, the Postal Service requests that the Commission deny the Mr. Popkin’s Motion.

Respectfully submitted,

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¹⁴ As discussed above, the service enhancements at issue in this proceeding are Real Mail Notification, and Street Addressing / Private Carrier Package Delivery.